



## *Report to the Auburn City Council*

Action Item
Agenda Item No. <b>5</b>

 City Manager's Approval
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**To:** Honorable Mayor and City Council Members  
**From:** Robert Richardson, City Manager  
Andy Heath, Administrative Services Director  
**Date:** January 10, 2011  
**Subject:** CalPERS Contract Amendment Resolution of Intention and Disclosure of Costs to Participate in 2% @ 50 Full Formula for Public Safety Members

### *The Issue*

Shall the City Council adopt a Resolution of Intention to approve an amendment to the Contract between the City of Auburn and CalPERS providing Public Employees' Retirement Law Section 20475 (Different Level of Benefits – Contract Amendment Without Employee Election) for local safety members; and adopt a resolution disclosing the future annual cost of Section 21362 (2% @ 50 Full formula) benefits at least two weeks prior to adoption of the Contract Amendment Ordinance?

### *Conclusions and Recommendations*

1. The City Council, by **RESOLUTION**, adopts a Resolution of Intention to approve an amendment to the contract between the Board of Administration California Public Employees' Retirement System and City of Auburn providing Section 20475 (Different Level of Benefits) for local safety members whereby Section 21362 (2% @ 50 Full formula) is applicable to local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract.
2. The City Council, by **RESOLUTION**, consistent with Government Code Section 7507, discloses the future annual employer costs related to a local public safety benefit amendment will be 14.172% of reportable earnings for local safety members entering the membership for the first time in the safety classification after the effective date of the amendment to the contract.

### *Background*

On September 13, 2010, the City Council approved Resolutions No. 10-116 and 10-117 adopting the Memoranda of Understanding with the Auburn Police Officer's Association and the Auburn Firefighter's Association, respectively. As referenced in both

agreements, the City and both associations agreed to amend the contract with CalPERS to provide California Public Employees' Retirement Law Section 20475 (Different Level of Benefits) by implementing Section 21362 (2% @ 50 Full formula) for local safety members entering membership for the first time in the safety classification after the effective date of the amendment to the contract. City Council actions recommended herein facilitate the implementation of this benefit change for the City's firefighters and police officers.

### Analysis

#### Implementation of Section 20475 Different Level of Benefits (Section 21362 – 2% @ 50)

The Section 21362 2% @ 50 Formula provides a different level of retirement benefit payout than that currently vested by existing public safety (sworn police and fire) personnel. Prospectively, beginning with the effective date of the contracted benefit amendment, sworn public safety personnel hired subsequent to the effective date shall be covered by the 2% @ 50 Formula for retirement. Existing public safety personnel hired prior to the effective date of the contracted benefit amendment shall remain in the 3% @ 50 Formula for retirement. Steps to implement the contract amendment must be undertaken as follows:

1. Governing body adopts a Resolution of Intention to implement the contract amendment – *January 10, 2011.*
2. Public disclosure of future annual costs to implement the contract amendment at least two weeks prior to the adoption of the Ordinance – *January 10, 2011.*
3. Governing body adopts a Contract Amendment Ordinance at least 20 days after the adoption of the Resolution on Intention – *First Reading - February 14, 2011 / Second Reading - February 28, 2011.*
4. Effective date of the contract amendment is the first day of the payroll period beginning after final adoption of the Contract Amendment Ordinance – *April 1, 2011 (more than 30 days after the second reading of the proposed ordinance).*

#### Certification of Compliance – Government Code Section 7507

Government Code Section 7507 requires future annual costs of providing benefits related to the implementation of Section 20475 – Different Level of Benefits; Section 21362 (2% @ 50 Full formula) be made public for two weeks prior to the adoption of the Ordinance implementing the contract amendment. The future annual costs are as follows:

*The employer contribution rate will be 14.172% of reportable earnings for local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract (1).*

**(1) The City currently pays and will continue to pay 19.094% of reportable earnings for local safety members hired prior to the implementation of the proposed contract amendment.**

**Alternatives Available to Council; Implications of Alternatives**

1. Adopt a Resolution of Intention approving an amendment to the contract between the Board of Administration California Public Employees' Retirement System and City of Auburn providing Section 20475 (Different Level of Benefits) for local safety members whereby Section 21362 (2% @ 50 Full formula) is applicable to local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract; and adopt a resolution disclosing the future annual employer costs for the decrease in benefits by implementing Section 21362 for local safety members to be 14.172% of reportable earnings.
2. Do not adopt the resolutions and direct staff accordingly.

**Fiscal Impact**

Future annual costs borne by the City, to the extent new police officers and firefighters are hired and qualify for participation in the CalPERS Retirement System, are estimated to be comparatively lower as the employer cost is reduced from 19.094% of reportable earnings (fiscal year 2010-11) to 14.172% of reportable earnings.

**RESOLUTION OF INTENTION  
TO APPROVE AN AMENDMENT TO CONTRACT  
BETWEEN THE  
BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
AND THE  
CITY COUNCIL  
CITY OF AUBURN**

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20475 (Different Level of Benefits).  
Section 21362 (2% @ 50 Full formula) is applicable to local  
safety members entering membership for the first time in  
the safety classification after the effective date of this  
amendment to contract.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

By: \_\_\_\_\_  
Presiding Officer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date adopted and approved



## EXHIBIT

California  
Public Employees' Retirement System

# AMENDMENT TO CONTRACT

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Auburn

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective July 1, 1970, and witnessed March 31, 1970, and as amended effective July 1, 1973, November 1, 1978, July 1, 1984, June 24, 1993, June 16, 1996, September 16, 2000, April 16, 2002, April 10, 2003 and July 1, 2010 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective July 1, 2010, and hereby replaced by the following paragraphs numbered 1 through 14 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 50 for local safety members.
  2. Public Agency shall participate in the Public Employees' Retirement System from and after July 1, 1970 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
  - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
  - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
  - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
  - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
  - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.
  - (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
  - (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
  - a. Local Fire Fighters (herein referred to as local safety members);
  - b. Local Police Officers (herein referred to as local safety members);

- c. Employees other than local safety members (herein referred to as local miscellaneous members).
- 5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
  - a. **PERSONS COMPENSATED ON AN HOURLY BASIS.**
- 6. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service prior to July 30, 1973, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
- 7. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member entering membership in the safety classification on or prior to the effective date of this amendment to contract shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
- 8. The percentage of final compensation to be provided for each year of credited current service as a local safety member entering membership for the first time in the safety classification after the effective date of this amendment to contract shall be determined in accordance with Section 21362 of said Retirement Law (2% at age 50 Full).
- 9. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 20042 (One-Year Final Compensation).
  - b. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
  - c. Section 20965 (Credit for Unused Sick Leave).
  - d. Section 21024 (Military Service Credit as Public Service).
  - e. Section 20903 (Two Years Additional Service Credit).
  - f. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local fire members only.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

- g. Section 20475 (Different Level of Benefits). Section 21362 (2% @ 50 Full formula) is applicable to local safety members entering membership for the first time in the safety classification after the effective date of this amendment to contract.
- 10. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on November 1, 1978. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
- 11. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
- 12. Public Agency shall also contribute to said Retirement System as follows:
  - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local fire members.
  - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
  - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
- 13. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.



14. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL  
CITY OF AUBURN

BY \_\_\_\_\_  
LORI MCGARTLAND, CHIEF  
EMPLOYER SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk

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RESOLUTION NO. 11-

RESOLUTION TO MAKE PUBLIC THE FUTURE ANNUAL COSTS TO AMEND  
LOCAL SAFETY RETIREMENT BENEFITS UNDER THE CALPERS SECTION 20475  
AND 21362 OF THE CALIFORNIA PUBLIC EMPLOYEE'S RETIREMENT LAW

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THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY RESOLVE:

That the City Council of the City of Auburn, in accordance with  
Government Code Section 7507, does hereby adopt a resolution to make public  
for two weeks prior to the adoption of an ordinance, costs of providing benefits  
under the California Public Retirement System's (CalPERS) Section 20475 -  
Different level of benefits - Contract amendment without employee election;  
and CalPERS Section 21362 - 2% @ 50 Full formula, will be 14.172% of  
reportable earnings for local safety members entering the membership for the  
first time after the effective date of the amendment to the contract.

DATED: January 10, 2011

\_\_\_\_\_  
William W. Kirby, MD, Mayor

ATTEST:

\_\_\_\_\_  
Joseph G. R. Labrie, City Clerk

I, Joseph G. R. Labrie, City Clerk of the City of Auburn, hereby certify  
that the foregoing resolution was duly passed at a regular meeting of the City  
Council of the City of Auburn held on the 10<sup>th</sup> day of January 2011 by the  
following vote on roll call:

Ayes:  
Noes:  
Absent:

\_\_\_\_\_  
Joseph G. R. Labrie, City Clerk

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

Actuarial and Employer Services Branch

Public Agency Contract Services

P.O. Box 942709

Sacramento, CA 94229-2709

(888) CalPERS (225-7377)

**CERTIFICATION OF COMPLIANCE WITH  
GOVERNMENT CODE SECTION 7507**

I hereby certify that in accordance with Section 7507 of the Government Code  
the future annual costs as determined by the System Actuary for the  
increase/change in retirement benefit(s) have been made public at a public meeting  
of the

\_\_\_\_\_ of the  
(governing body)

\_\_\_\_\_  
(public agency)

on \_\_\_\_\_ which is at least two weeks prior to the adoption of the  
(date)

Resolution / Ordinance.

Adoption of the retirement benefit increase/change will not be placed on the consent  
calendar.

\_\_\_\_\_  
Clerk/Secretary

\_\_\_\_\_  
Title

Date \_\_\_\_\_

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

Actuarial and Employer Services Branch

Public Agency Contract Services

P.O. Box 942709

Sacramento, CA 94229-2709

(888) CalPERS (225-7377)

**CERTIFICATION OF COMPLIANCE WITH  
GOVERNMENT CODE SECTION 20475**

I hereby certify that the \_\_\_\_\_ of the  
(governing body)

\_\_\_\_\_  
(public agency)

has fully discharged all of the obligation imposed by Chapter 10 (commencing with  
Section 3500) of Division 4 of Title 1, Government Code.

By \_\_\_\_\_

\_\_\_\_\_  
Title

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date